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Power of Leaders: Effect of Strong Leaders on the Regulation of Drugs

Since the early 1900's drug regulation has been a pressing issue in American politics; there is no general consensus of how much regulation is enough. Throughout the years, politicians, especially congressional members, have argued for and against increasing drug regulation. Despite the constant argument, drug regulation has increased over the years for both prescription drugs and narcotics. As of recently, there has been a major controversy over the legalization of narcotics (mostly marijuana and cocaine). Many feel that by banning drugs, the government is amassing too much power in the day-to-day lives of American citizens. Others, who support the increase in regulation, argue the government must do what is necessary to protect the American people, even if it means taking away certain liberties. This essay is not intended to support nor undermine the regulation of drugs. Rather I argue that strong leaders, like Harrison, Anslinger, and Nixon, played a vital role in the trend of increased drug regulation throughout the years as they took advantage of their time period to spread their anti drug messages.

Francis Burton Harrison, a representative from New York, started the trend of increased regulation when he advocated for the Harrison Narcotics Tax Act, taking advantage of the increased regulatory spirit of the Progressive Era. The Progressive Era, characterized as a battle between big businesses and laborers and consumers who sought representation, spurred a new spirit of increased regulation. In order to understand how Harrison took advantage of the progressive spirit, we must first look at the powerful players in Congress during this time period and the prominent issues they faced. Food

regulation was one of the most salient issues of the time period due to Upton Sinclair's novel *The Jungle* which exposed the unsanitary conditions of food factories. Public opinion leaned toward more regulation of big businesses especially food factories. Congress's reaction to the public's opinion varied along party lines. During the Progressive Era, Congress and the Executive Branch were split in terms of party faction alignments. While both chambers of Congress and the Executive Branch were Republican, there was a split in the Republican Party between the liberals, also known as the progressives, and the conservatives. President Theodore Roosevelt was considered a progressive as he fought for an increase in the government's power especially in terms of setting limitations on big businesses control over the food industry. He and other progressives felt the government wasn't protecting the consumers enough. President Roosevelt's views were in contrast with conservative Speaker of the House, Joseph G. Cannon, and President Pro Tempore of the Senate, William P. Frye, who felt the government, should stay neutral in the battle between big businesses and consumers.

While some conservatives like Cannon, were just inherently against the expansion of the government's power, other congressmen used the conservative faction as a way to push their own agenda. In regard to the food legislation, Senator William Frye, is an example of the latter group as he did not support the Pure Food and Drug Act and the Meat Inspection Act because it created restriction on his own business of canning "imported French Sardines caught off the coast of Maine."¹ In the 1900's congressional members often had other jobs, as the position of a congressmen was not revered the way it is today. When congressmen had other professions, their interests were often conflicted

¹ Robert Harrison. *Congress, Progressive Reform, and the New American State*. (Cambridge: Cambridge University Press, 2004), 169 .

with their own interests. The resistance from conservatives forced progressive congressmen to find creative ways to implement regulation. With much resistance from his fellow conservative senators, Senator Albert J. Beveridge had to present the Meat Inspection Act in a non-traditional way. Beveridge saw his chance to put it on the Agricultural bill as an amendment.² Upon being added to another bill, the Meat Inspection Act was passed immediately during a roll call vote. Despite the resistance from conservative senators, Beveridge was able to get the act passed in the Senate and later passed in the House as he took advantage of the amendment process and added it to a bill that was sure to pass. Regardless of the bias from both Frye and Beveridge, both The Pure Food and Drug Act and the Meat Inspection Act passed in the Senate proving that there was a general consensus toward increases in regulation.

The spirit of increased regulation spurred the first regulatory drug legislation, the Harrison Narcotics Act of 1914. The passing of the Harrison Narcotics Tax Act by Congress in 1914 was the start of major legislation concerning the regulation of narcotics. By its name alone, one can infer that the government was just trying to raise revenue off of the sale of narcotics and after much debate on the floor that's what the bill essentially did. Interestingly enough when Harrison presented it to the floor for debate, he did not intend for it to be a tax act, rather he intended for the regulation of narcotics. However, his fellow congressional members felt the Constitution did not give them the power to regulate and feared the expansion of the government's power. Congressman Sisson questioned the power of the government when speaking to the floor:

² "Meat Inspection Bill Passes the Senate," Mindfully Green, accessed May 7, 2013, <http://www.mindfully.org/Food/Meat-Inspection-Bill-Beveridge.htm>.

Mr. Sisson: “The gentleman (referring to congressional member Harrison) now gets at the point of the case. Does the gentleman believe that the Constitution construed as a whole ever contemplated that Congress would exercise wither of these powers in the exercise of a police power? The purpose of this bill —and we are all in sympathy with it—is to prevent the use of opium in the United States, destructive as it is of human happiness and human life; but the question now is whether or not the purpose you desire to reach is a purpose that would be permitted under any class of the Constitution?”³

Before the Harrison bill was passed through both chambers of Congress, there was constant debate about the interpretation and power of the government to regulate opium, a popular drug during the era. During this debate, we see the questioning of power of the government. Was the government given the power to regulate narcotics? To Harris, this was simple, yes. The safety of American citizens was to be ensured through whatever means necessary. To others, the answer wasn't as simple as shown by Congressman Sisson's monologue. It's interesting to note that the main opposition to Harris's Narcotics Act was not from the conservative Republican from whom he expected but from a member of his own party. Harris had to consistently lobby for his act as he dealt with opposition from both sides of the spectrum; the act was viewed as too liberal for even the most liberal congressional members like Sisson. The decision to expand the scope of the government into the regulation of drugs was not an easy one, for both conservative Republicans and liberal Democrats. When debating the bill in Congress, Congressman Sisson did not negate the problem of drugs in the United States. Rather he feared the expansion of the government's power. Once the government got involved in regulating drugs and food, there would be no limit to its power. Despite the naysayers and cautious ones, the Harrison Act was passed in both the House and Senate and enacted into law in

³ Congressional Record 50 (June 1913): 2194. (Congressional Record 50 1913) (accessed April 2, 2013)

1914. Harrison successfully used the spirit of increased regulatory legislation of food to fit his own agenda, an increase in narcotics legislation. The spirit of increased regulation of food and the progressive movement provided perfect timing for Harrison who wanted an increase of drug regulation yet could not get his legislation to pass beforehand with opposition from both the conservative Republicans and the Democrats.

The expansion of the government’s power in in drug regulation did not end when the Progressive Era ended. Rather it continued as the decade of prohibition, spurred Anslinger, commissioner of the Federal Bureau of Narcotics in 1930, to spread his anti- drug campaign. The regulation of alcohol became a big deal in the early 1920’s as the United States was leaving the Progressive Era. The prohibition era strongly depended on the increased regulatory spirit of the Progressive Era as Republicans strongly resisted the increase of power within the government. While Republicans stood their ground in the Senate and the House, the 18th amendment prohibiting the sell of alcohol in the US still passed, exemplifying another trend of increased regulation in the United States. Anslinger took advantage of this trend in the 1930’s and pushed his campaign for the first unofficial ‘war on drugs’.

While some argue that the prohibition era was just a coattail effect of the increased regulation of the Progressive Era, I contend that other factors were at play;

DRINK BOOSTS DEATH RATES

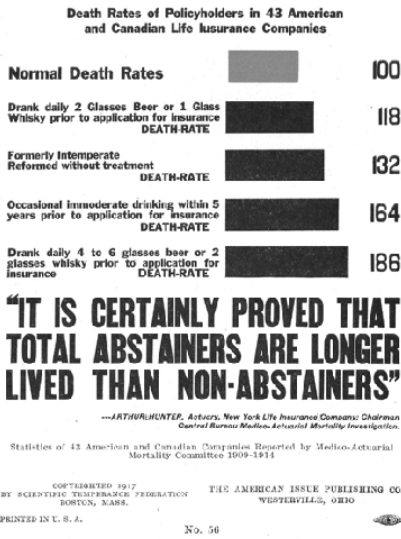


Figure 1: Flyer sent out by the Anti-Saloon league linking drinking with the increased death rates

these factors are important to consider understanding why Anslinger waited till the 1930's to push for a sudden increase in drug legislation. Prior to the 1930's it was often thought that political bosses controlled many of the big businesses in the city including local saloons. Organizations like the Anti- Saloon League took advantage of the mass media surrounding the Progressive Era and pushed for their cause, the prohibition of alcohol. Linking alcohol to the social ills of the world like increased death rates, league members posted flyers like the ones shown in Figure 1, pictured above to appeal to the reformers in Congress for a change. Their efforts did not go unnoticed as talk of a new amendment prohibiting the sale of alcohol was brought about in Congress. To no surprise, there was resistance from some members of Congress who felt that prohibiting alcohol gave the government too much power, as did Senator Calder from New York who stated to the president of the Senate: " Mr. President, ... I shall hesitate before voting for any amendment to the Constitution unless I feel certain that there is an overwhelming demand for it."⁴ Senator Calder was not the only one who opposed the 18th amendment. There was also resistance in the House as some representatives like Representative Small were opposed to the amendment for the same reasons. Representative Small addressed the floor of the House: "I am opposed to this resolution because it proposes to take away from the States an essential right of local self-government. It proposes to impair the police power of the states,"⁵ in hopes of swaying voters against the amendment proposition. Despite the consensus against taking away power from state legislations, the

⁴ Congressional Record 55 (August 1917): 5636. <http://heinonline.org.ezp-prod1.hul.harvard.edu/HOL/Page?collection=congreg&handle=hein.congreg/cr0550006&div=8>

⁵ Congressional Record 55 (December 1917): 433. <http://heinonline.org.ezp-prod1.hul.harvard.edu/HOL/Page?collection=congreg&handle=hein.congreg/cr0550006&div=8>

18th amendment was passed and enacted on January 17, 1920. The addition of a new amendment to the Constitution was a drastic measure in the eyes of Congress as displayed by the reactions of Senator Calder and Representative Small. The spirit of increased regulation that had started from the Progressive Era had culminated in the inclusion of a new amendment during the prohibition era with the help of propaganda set forth by the Anti-Saloon league.

While the enactment of the 18th amendment gave Anslinger the push to set forth his attack on drugs, what really brought him into power and gave him the ammunition to set forth his war on drugs was the passage of the Narcotics Import and Export Act of 1922 (also known as the Jones-Miller act for it's sponsors), which set \$ 5,000 fines, and 10-year prison sentences for those caught dealing or using cocaine and heroine. Sponsored by Representative John Franklin Miller and Senator Wesley L. Jones, the Narcotics Import and Export Act not only made it illegal for the mere possession of drugs, but it also created the Federal Narcotics Control Board which enforced the regulation proposed by the act and set requirements for countries who imported or exported narcotics for legitimate reasons. By this time, the regulation of drugs had become a pressing issue for society as a whole as the bill was sponsored and passed by a Congress of majority Republicans and signed by a Republican president (as shown in Figure 2 below), who had maintained a track record of favoring a limited role of government.

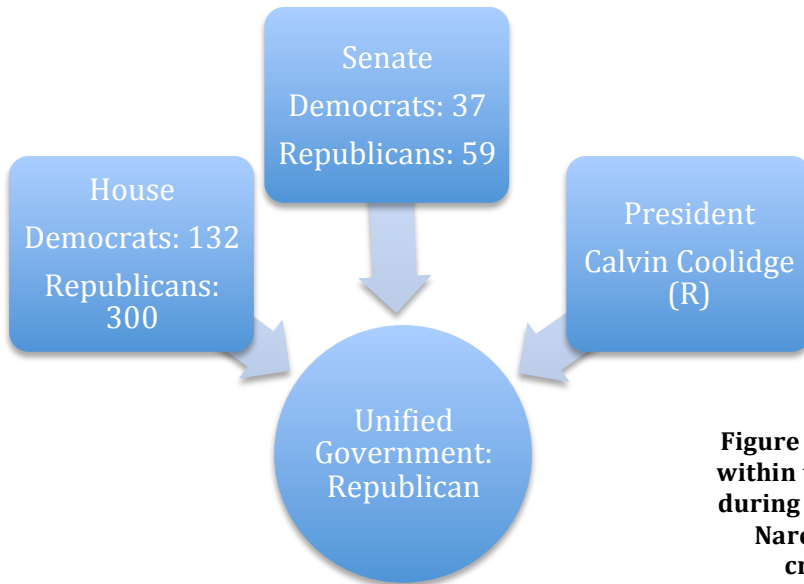


Figure 2: Diagram showing the party unity within the executive and legislative branch during the 67th Congress, which passed the Narcotics Import and Export Act that criminalized the usage of drugs.

This act was important in setting the tone for drug legislation to follow, as up until this point, consuming drugs was not a crime. The Narcotics Import and Export Act, unlike the Harrison Act, made those who dealt with drugs, criminals. Criminalizing drugs and classifying heroine and cocaine as narcotics universalized the myriad of state laws which dealt with narcotics in different ways as it was illegal in some state and legal in others. The criminalizing of drugs had both positive and negative effects although most were negative. The criminalization of drugs only increased drug usage as an illegal drug market was created to meet the demand of drug users, wherein cocaine and heroine were marked at the highest prices given the newfound restrictions on them. The market for drugs only increased and spiked the crime rate as drug users turned to crime when the price of drugs increased through the black market. With the onset of a new illegal market, the government responded with the creation of the Federal Bureau of Narcotics in 1930, which replaced the prior Federal Narcotics Control Board that was put in place by the Jones-Miller Act. The Federal Bureau of Narcotics was created with the purpose of

enforcing narcotics laws with Harry J. Anslinger as its commissioner. With the power of commissioner, Anslinger began to start his 'war on drugs.'

Anslinger took advantage of the bias nature of citizens to advocate for the Marijuana Tax Act. Although the country was generally moving toward more regulation regarding drugs, the regulation of marijuana was just a façade for the current immigration problem as people generalized the use of marijuana to be used by Mexican laborers and there was a general consensus amongst Americans against the influx of undocumented laborers who were taking away from the job market. In the case of the Marijuana Tax Act, the increase of drug regulation was used as a way to criminalize undocumented workers. During the 1930's, marijuana was seen as a drug that was rather harmless compared to cocaine and opium as it had a lower psychological addiction potential as most other drugs and produced the same harm to the body that tobacco did. Anslinger himself, the founder of the first 'war on drugs' and one of the biggest proponents against drugs, noted himself, "we weren't having any trouble with it" when asked about the inherent problem of marijuana in the country during an interview for the History Channel.⁶ Thus, the question arises why would Anslinger lobby for the passage of the Marijuana Tax Act and why would the current representatives and senators pass it if the public opinion was that marijuana wasn't such a big deal?

It must be assumed, therefore, that what drove Anslinger was largely political in nature. And there is no question that politicians from the Southwest wanted federal control of marijuana. What motivated those politicians was pressure from their constituents and that, in turn, could be traced back to simple racial prejudice. All banned substances at one time or another were associated with some

⁶ Thomas C. Rowe, *Federal Narcotics Laws and the War on Drugs* (Binghamton: Haworth Press, 2006), 25.

identifiable group of people who lacked political power or social status, and marijuana was no exception, as it was strongly linked to the Mexican laborers.⁷

Public opinion was against Mexican laborers and people used the criminalization of marijuana as a method of decreasing the competition for low paying jobs. Southerners and westerners used mass media to vilify Mexican laborers claiming they stole the jobs of hardworking Americans and not before long the public was against the use of marijuana despite the general consensus that it was relatively harmless. With the support of the Southerners and Westerners, Anslinger was able to push the Marijuana Tax Act through, expanding the scope of the government's power in regards to drug legislation. He took advantage of the racial biases at large in the 1930's and used it to push for his end goal, an attack on marijuana and a war on drugs.

Although Anslinger was not a representative or a senator, he held great power over the decisions Congress made in regards to drug legislation as he took advantage of his position as head of the Federal Bureau of Narcotics to spread his anti-drug campaign across the country. His "war on drugs" had far reaching effects as Congress started to expand the scope of those drugs considered to be narcotics, especially marijuana as shown with the passage of the Marijuana Tax Act of 1937. This act broadened the scope of narcotics and branded marijuana as an illegal narcotic, placing it in the same category as cocaine and opium. Anslinger pushed for the passage of the Marijuana Tax Act of 1937 as he skewed his opinions during Congressional hearings to make the drug be perceived by congressmen as more of a threat to the American citizens than it actually was. Anslinger "spoke about how marijuana provoked its users to commit terrible crimes. He... [told] the story of a young Florida boy who had used marijuana and then killed his

⁷ Ibid. 53

entire family. Anslinger did not mention that the boy had been diagnosed mentally unstable long before he had ever used marijuana.” (Levinson 19)⁸ This was just part of Anslinger’s skewed responses toward questions regarding marijuana. In the Senate hearings on HR 6906 on July 12, 1937 Anslinger “suggested that the intellect of young people who smoked marijuana was so damaged that they committed murder, robbery, and rape. In one particular case, he suggested a single marijuana cigarette was sufficient to develop a state of homicidal mania.”⁹ Anslinger’s tactics in Congress worked as the Marijuana Tax Act passed both the House and Senate with little debate. The passage of the Marijuana Tax Act marked the first attack Anslinger set forth against drugs.

Anslinger believed in a strong law enforcement approach to drug problems and spent much of his time strenuously campaigning on behalf of that philosophy and against the “evils” of drugs.”¹⁰ In some respects, Anslinger’s approach to the regulation of drugs could be seen as the first “war on drugs” as the whole country became involved in the movement against drugs. Activists like radio evangelist Billy Sunday and Alabama congressional member Richmond Hobson broadcasted anti drug messages to the public, turning public opinion against the use of drugs. Although most of the messages they spread were false propaganda, their power was far reaching as by the mid 1930’s the anti drug campaign moved from the political arena to the every day lives of citizens. “The American movie industry also became engaged in the antidrug crusade... [as] the Motion Picture Association of America (MPAA) announced it would refuse the seal of approval

⁸Martin H. Levinson, *The Drug Problem: A New View Using the General Semantics Approach*. (Westport: Praeger Publishers, 2002), 17.

⁹ Thomas C. Rowe, *Federal Narcotics Laws and the War on Drugs* (Binghamton: Haworth Press, 2006), 29.

¹⁰Martin H. Levinson, *The Drug Problem: A New View Using the General Semantics Approach*. (Westport: Praeger Publishers, 2002), 17.

for any film that showed narcotics”¹¹ The war did not just hit consumers and those in the film industry, it also affected education nationwide as “American educators took part in the drug fight by not providing drug education. They believed if young people were given information about drugs, it would arouse their interest to go out and sample them.”¹² For the first time, drugs became a national issue as Anslinger made his anti-drug crusade a social issue as he formed a movement to change public opinion against narcotics.

Anslinger continued to use the time period of anti immigrant consensus amongst the public to push for more drug regulation. Similar to the Marijuana Tax Act and the bias against Mexican laborers, Anslinger used the rise of communism to increase the drug regulation in the 1950’s especially after China fell to communism in 1949. Americans feared the spread of communism in the United States and Anslinger took advantage of their fears by “[tying] narcotic addiction to the communists, which succeeded in getting the Federal Bureau of Narcotic’s budget doubled over the next five years.”¹³ A higher budget was not enough as crimes regarding drugs continued to rise, resulting in the Boggs Act of 1951 and the Narcotic Act of 1956 which introduced severe mandatory minimum punishments for repeated convictions of drug crimes. Although Anslinger had no part in writing the legislation nor had the power to vote in Congress, he played a tremendous part in the passage of both legislations. He was called as an expert witness for the Boggs Act given his experience as commissioner of the Federal Bureau of Narcotics and by the time his testimony (which suggested the current penalties for drug related crimes were too soft and part of the reason drugs were becoming an epidemic)

¹¹ Ibid.

¹² Ibid.

¹³ Thomas C. Rowe, *Federal Narcotics Laws and the War on Drugs* (Binghamton: Haworth Press, 2006), 54.

was over there was little to contest amongst both the floors of the House and the Senate. Among congressmen considering the bill, there was no dissent from the proposition that harsher penalties were the means to eliminate the illicit use and sale of all drugs, thus it was passed with little debate. In regards to the Narcotic Act of 1956, Anslinger had similar influence over its' passage. "As with the Boggs Act, Anslinger did not author the legislation or propose it, but he supported it in the hearing. Once again he tied the communist menace to illicit drugs, suggesting this was a common way for communists to undermine American democracy."¹⁴ The Narcotic Control Act of 1956 marked the final piece of legislation pushed forward by Anslinger and the end of his drug war as he resigned in 1962. Although Anslinger retired, the war on drugs was not over as the Nixon administration started soon after in 1970 and the official 'war on drugs' began.

In July 1969, Nixon addressed Congress about the lack of prominent drug policy within the United States and urged for a change. He called for a response to the "serious national threat to the personal health and safety of millions of Americans."¹⁵ The result was a year of at least five pieces of legislation that increased the scope of the federal government in regards to drug regulation: (1) Comprehensive Drug Abuse Prevention and Control Act, (2) Racketeer-Influenced and Corrupt Organizations Act, (3) Continuing Criminal Enterprise Statue (CCE), (4) Convention on Psychotropic Substances and (5) Drug Abuse Office and Treatment Act. This marked the most drug regulation that was passed in such a short amount of time. Little could question the power Nixon had over the increased legislation passed during the early 1970's. What was questionable was how

¹⁴ Thomas C. Rowe, *Federal Narcotics Laws and the War on Drugs* (Binghamton: Haworth Press, 2006), 57.

¹⁵ Eva Bertram, Morris Blachman, Kenneth Sharpe and Peter Andreas, *Drug War Politics* (Los Angeles: University of California Press, 1996), 106.

Nixon was able to get drug legislation passed through Congress, as he had no power in writing or enforcing new legislation. Like Anslinger, Nixon took advantage of the current trends during the time period to push for his war on drugs.

While Anslinger took advantage of the anti immigrant sentiment, Nixon did the same with the spread of crime rates during the late 1960's and early 1970's. Nixon blamed the crime problem in America to increased drug use to make increased drug regulation a priority within Congress. He appealed to the public by “emphasizing that ‘narcotics addiction [was] a major contributor to crime’ because addicts ‘often turned to shoplifting, mugging, burglary, armed robbery, and so on’ to feed their addiction.”¹⁶ He then overestimated the heroin-addiction problem in the country to ensure that people became worried about the crime that would follow. His plan worked as people became worried about the rampant drug use and its’ ramifications and urged their representatives in Congress to draft new legislation to curtail drug use.

While Congress was drafting the first legislation of the decade to increase drug regulation, Nixon took matters into his own hands by sending US soldiers to stop the supply of drugs coming in from Mexico. Nixon made it his goal to increase the scope of the federal government’s power in stopping the supply of drugs. In order to do this, he had to stop drugs from being imported into the country and crack down on drug sellers by increasing the penalties, from being imported into the country. In September of 1969, Nixon deployed two thousand agents on the Mexican border under Operation Intercept to stop illegal drugs from crossing the border. Soldiers searched thousands of automobiles and trucks for drugs. Operation Intercept was known as the “largest peacetime

¹⁶ Eva Bertram, Morris Blachman, Kenneth Sharpe and Peter Andreas, *Drug War Politics* (Los Angeles: University of California Press, 1996), 106.

nonmilitary search and seizure operation.”¹⁷ Operation Intercept was just the first case in which Nixon broadened his powers as president to increase drug regulation.

President Nixon did whatever it took to increase drug regulation despite the resistance he faced from the agencies in charge of drug regulation. The Federal Bureau of Narcotics, which was formerly commissioned by Anslinger, was merged with another department to form the Bureau of Narcotics and dangerous Drugs (BNDD) shortly before Nixon came to office. Nixon set forth his plan to Congress to increase drug regulation by focusing on the street dealers to stop the local supply of drugs. The status quo legislation regarding the regulation of drugs at the time was comparatively lenient on small dealers compared to drug lords who sold internationally. Nixon wanted to shift the focus on small time dealers to decrease the supply on the streets and make an immediate impact. The BNDD was not as welcome to Nixon’s plan to increase drug regulation as the public was and resisted his attempts to focus more on street level dealers instead of higher levels of the drug distribution system. In response, Nixon “countered with an executive order establishing a new agency under direct White House control, the Office of Drug Abuse Law Enforcement (ODALE).”¹⁸ The BNDD fell powerless to the new agency, as Nixon was able to implement new policies and directly change the legislation regarding drug regulation despite his inability to actually draft or vote in Congress.

After taking advantage of his powers as president through the use of military operations and the creation of new agencies, it wasn’t before long that Nixon was able to successfully get legislation regarding drug regulation passed in Congress. In 1970, one of

¹⁷ Martin H. Levinson, *The Drug Problem: A New View Using the General Semantics Approach*. (Westport: Praeger Publishers, 2002), 23.

¹⁸ Eva Bertram, Morris Blachman, Kenneth Sharpe and Peter Andreas, *Drug War Politics* (Los Angeles: University of California Press, 1996), 107.

the first legislations regarding drug regulation was the Comprehensive Drug Abuse Prevention and Control Act of 1970, which categorized drugs by their level of “dangerousness”. “Marijuana, LSD and heroin were put into Schedule I, a category reserved for drugs that a high potential for abuse...Cocaine, because it has accepted medical uses, was placed in Schedule II.”¹⁹ In addition to categorizing certain drugs, the act also called for strict compliance with the penalties set forth by prior legislation. Police were given the authority to find narcotics by any means necessary as the act “allowed federal agents to seek ‘no knock’ warrants from judges, which permitted them to enter private homes and buildings for drug searches without giving notice of their authority and purpose.”²⁰ Police began cracking down on street level dealers and the result was exactly what Nixon had planned; more attention was given to street level suppliers than those higher up in the drug supply chain. By the early 1970’s Nixon’s war on drugs was finally coming together as the whole country was behind him in his attack on drug suppliers and addicts.

Where has the war on drugs brought us today There is much controversy over whether the war on drugs has been a success or a failure. Despite that, little can attest to the effect Nixon had on the continued increased regulation of narcotics even after the war on drugs ended in the late 1970’s. After the Nixon administration, the strict drug policies continued throughout the 1980’s and 1990’s during the administration of both Reagan and Bush. Strong leaders like Nixon, Anslinger and Harrison shaped drug legislation, as we know it today, as without their leadership, the regulation of drugs would not be as

¹⁹ Martin H. Levinson, *The Drug Problem: A New View Using the General Semantics Approach*. (Westport: Praeger Publishers, 2002), 20.

²⁰ Eva Bertram, Morris Blachman, Kenneth Sharpe and Peter Andreas, *Drug War Politics* (Los Angeles: University of California Press, 1996), 106.

strict. As of recently, the war on drugs has been made questionable by the riddance of the term “war on drugs” by the Obama administration to suggest a lacking in the regulation of drugs as state legislations are starting to legalize the usage of certain narcotics like marijuana. Perhaps as we enter a new decade, the lack of strong leadership behind drug regulation hints at a new turn of events in the “war on drugs”.